

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
)	
Streamlining Deployment of Small Cell)	WT Docket No. 16-421
Infrastructure by Improving Wireless)	
Facilities Siting Policies)	
)	
)	
Mobilitie, LLC Petition for Declaratory)	
Ruling)	

COMMENTS OF THE GEORGIA MUNICIPAL ASSOCIATION, INC.

The Georgia Municipal Association, Inc. (GMA) respectfully submits these Comments in response to the December 22, 2016 Public Notice (Public Notice) of the Wireless Telecommunications Bureau (Bureau).¹ The GMA appreciates the Bureau's interest in this topic, as the GMA shares the Bureau's goal of delivering more robust wireless services to consumers.² The GMA also appreciates the Bureau's recognition of the unique role that local governments play in preserving local interests such as aesthetics and safety.³

GMA and Mobilitie recently developed a model right-of-way licensing agreement (See Exhibit A) for placement of Mobilitie equipment in city and county rights-of-way. This agreement was negotiated by the GMA (on behalf of its members) and Mobilitie and provides an example of a constructive solution that facilitates deployment of broadband technologies in a reasonable, thoughtful manner that is consistent with the promotion of citizens' health and

¹ *Streamlining Deployment of Small Cell Infrastructure by Improving Wireless Facilities Siting Policies, Mobilitie, LLC Petition for Declaratory Ruling*, PUBLIC NOTICE, WT Docket No. 16-421 (WTB 2016), as modified by *Streamlining Deployment of Small Cell Infrastructure by Improving Wireless Facilities Siting Policies, Mobilitie, LLC Petition for Declaratory Ruling*, ORDER, WT Docket No. 16-421, DA-17-51 (Jan. 11, 2017).

² PUBLIC NOTICE at 2.

³ PUBLIC NOTICE at 2.

welfare. Our ability to reach this agreement with Mobilitie demonstrates that motivated parties can reach reasonable agreements without additional federal action, including, but not limited to, the declaratory ruling suggested by Mobilitie.⁴

A. The GMA

The GMA is a voluntary, non-profit organization that provides legislative advocacy, educational, employee benefit and technical consulting services to its members. It is the only state organization that represents municipal governments in Georgia. Currently, GMA's membership totals 521 municipal governments, accounting for more than 99% of the state's municipal population.

B. The Public Notice

The Bureau's PUBLIC NOTICE seeks comment on ways in which the Commission could promote wireless infrastructure deployment by issuing a declaratory ruling, including, but not limited to, those suggested in the MOBILITIE PETITION. The Bureau also seeks to develop a factual record that will help the assessment of whether and to what extent the process of local land-use authorities' review of siting applications is hindering, or is likely to hinder, the deployment of wireless infrastructure. The PUBLIC NOTICE also seeks comment on new and emerging wireless technologies and services, the applicable legal framework, including federal statutes, Commission rulings, and court decisions, as well as relevant state and local enactments and land-use authorities' decision-making on siting applications.

C. Small Wireless Facilities

The PUBLIC NOTICE provides a helpful discussion of the differences between small cells and distributed antenna systems (DAS).⁵ The illustrative examples provided by the Bureau were

⁴ *Streamlining Deployment of Small Cell Infrastructure by Improving Wireless Facilities Siting Policies, Mobilitie, LLC Petition for Declaratory Ruling*, MOBILITIE, LLC PETITION FOR DECLARATORY RULING, WT Docket No. 16-421 (filed Nov. 15, 2016) (MOBILITIE PETITION).

especially informative. Unfortunately, the configurations shown in illustrative examples are quite different from many of the proposals brought forward to GMA's members. GMA's members have received numerous applications from Mobilitie seeking to install monopoles of 70, 85 and even 120 feet in municipal rights-of-way (see Exhibit B). According to Mobilitie, these monopoles will be used to deploy small cells. Since "[a]ntennas and associated equipment deployed at each small cell site are physically much smaller than those at a macrocell site and do not require the same elevation," it is unclear to GMA why providers are seeking to install such large monopoles rather than the smaller, less obtrusive configurations shown in the PUBLIC NOTICE.

The PUBLIC NOTICE requests "commenters explain the extent to which siting review procedures for small wireless facilities are the same as those in place for macrocells."⁶ As a broad coalition of municipal governments, there is no uniform siting review process applied by the GMA membership. But when small wireless facility applications look more like macrocells than the illustrative examples provided in the PUBLIC NOTICE, it is not unreasonable for local governments to conform the review to the equipment presented.

D. GMA-Mobilitie Model Right-of-Way Licensing Agreement

GMA is happy to report that GMA and Mobilitie have developed a model right-of-way licensing agreement for placement of equipment in municipal rights-of-way. The model agreement has been provided to GMA's members for their use in reaching their own individual agreements with Mobilitie regarding the placement of facilities in the right-of-way. Importantly, the model agreement imposes reasonable regulations on the placement and maintenance of equipment in the right-of-way while also addressing reasonable compensation to be paid for

⁵ PUBLIC NOTICE at 4, n. 16.

⁶ PUBLIC NOTICE at 9.

Mobilitie's use of the right-of-way. In this way, the GMA-Mobilitie model agreement is similar to the agreements identified in the Public Notice that facilitate small cell deployments.⁷ Additionally, GMA has developed a Model Right of Way Permit Ordinance (see Exhibit C) that helps streamline deployment of small cell infrastructure in the ROW and we have developed a Master ROW Agreement and Communications License Agreement (see Exhibit D) to help facilitate small cell infrastructure deployment on City owned utility poles.

E. Declaratory Ruling Regarding Local Government Practices that “Prohibit or have the Effect of Prohibiting”

Sections 253 and 332 of the Communications Act affirm that States and local governments retain their traditional authority over the placement, construction, and modification of personal wireless service facilities, as well as the management of public rights-of-way. These powers cannot be used to prohibit an entity's ability to provide personal wireless service or in a discriminatory manner.⁸ The GMA is concerned that a declaratory order regarding practices that prohibit or have the effect of prohibiting the provision of wireless service would not account for the significant differences among local authorities and how those differences impact the reasonable exercise of powers affirmed under Sections 253 and 332 of the Communications Act. For example, relatively stringent height requirements or mandatory stealth installations may be appropriate for historical city centers, but such provisions may be inappropriate for exurban or rural communities. It is better to leave these decisions to local governments, subject to the overall requirement that any regulation is subject to the limitations contained in the Communications Act.

By including Section 253 of the Communication Act in the legislation, Congress recognized that cities throughout the United States have vastly different powers, responsibilities,

⁷ PUBLIC NOTICE at 8.

⁸ 47 U.S.C. §§ 235 (a) and (c), 332 (c)(7)(B).

sources of revenue and limitations largely due to the relationship between cities and the state in which they are located. While some states support local governments through revenue-sharing arrangements, these do not exist in Georgia. Municipalities in Georgia are primarily dependent on property taxes, sales taxes, service fees and franchise fees as sources of revenue.

Moreover, the Georgia Constitution contains two prohibitions against donations of public property. GA. CONST. Art. III, Sec. VI, Par. VI; GA. CONST. Art. IX, Sec. II, Par. VIII. Because the public rights-of-way are considered public assets, Georgia cities must receive fair market value for use of the right-of-way by a private company. This has been true for almost 100 years for electric companies, natural gas companies, and telephone companies, and since 1984 for cable companies. This fair market value is not measured by what it costs the city to regulate the right-of-way but rather by what it would cost the user of the right-of-way to purchase access from a private property owner. Local taxpayers should not be required to subsidize the placement of new technologies in the rights-of-way. Federal law does not require this but instead recognizes that existing and new users of the right-of-way should be treated in a competitively neutral and nondiscriminatory way. Franchise fees are a well-known and long established cost of doing business for users of the rights-of-way. Those who do not want to pay them are certainly free to negotiate and purchase easements through private property.

F. Conclusion

The GMA appreciates the Bureau's interest in this matter. Our ability to reach a constructive agreement with Mobilitie demonstrates that motivated parties are able to reach constructive solutions without additional federal action. We ask the Bureau keep this in mind as it evaluates Mobilitie's petition and the other matters presented in this Docket.

Respectfully submitted by,

THE GEORGIA MUNICIPAL ASSOCIATION, INC.

By: 
Lamar Norton
Its: Executive Director

EXHIBIT A

MASTER RIGHT OF WAY LICENSE AGREEMENT

This Master Right of Way Agreement (the "Agreement") made this ___ of _____, 20__ ("Effective Date"), between CITY, GEORGIA, with its principal offices located at _____ (hereinafter designated "CITY") and MOBILITIE, LLC, a Nevada limited liability company with its principal offices located at 2220 University Drive, Newport Beach, CA 92660 (hereinafter designated "MOBILITIE"). CITY and MOBILITIE are at times collectively referred to hereinafter as the "Parties" or individually as a "Party".

WITNESSETH

WHEREAS, the CITY desires to promote the health, safety and general welfare of the public by regulating the siting and placement of communications technologies in the public rights of way, including the encouragement of location and collocation of communications technologies on existing structures to the maximum extent possible; and

WHEREAS, pursuant to O.C.G.A. 46-5-1 et seq. telephone companies shall comply with all applicable local laws and regulations, including municipal ordinances and regulations, regarding the placement and maintenance of facilities in the public rights of way; and

WHEREAS, MOBILITIE desires to install, maintain and operate communications facilities in and/or upon the CITY's right-of-way ("Right-of-Way"); and

WHEREAS, CITY and MOBILITIE desire to enter into this Agreement to define the general terms and conditions which will govern their relationship with respect to particular sites at which CITY may wish to permit MOBILITIE to install, maintain and operate communications facilities as hereinafter set forth; and

WHEREAS, CITY and MOBILITIE acknowledge that, subject to CITY's issuance of Permits (as such term is defined in this Agreement) to MOBILITIE, the Parties will enter into Permit agreements with respect to particular locations or sites which the CITY agrees to license for use.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and intending to be legally bound hereby, the Parties hereto agree as follows:

1. PREMISES. Subject to Permit requirements set forth in Paragraph 2 and pursuant to all of the terms and conditions of this Agreement, the CITY agrees to permit MOBILITIE certain space (the "Space") located on a portion of CITY's Right-of-Way (the "Property"), for the installation, operation and maintenance of communications facilities. Subject to Permit requirements set forth in Paragraph 2, the CITY shall permit MOBILITIE to place antennas and other associated communications equipment within the CITY's Right-of-Way, together with such additional space on the Property sufficient for the installation, operation and maintenance of antennas (the "Antenna Space") and associated communications equipment that are owned by MOBILITIE and/or that are owned by MOBILITIE'S customers and maintained, controlled, and managed by MOBILITIE, whether on existing poles or ground-mounted (collectively, the "Communications Facility(ies)"); together with such additional space on and over the Property for the installation, operation and maintenance of wires, cables, conduits and

pipes (the **"Cabling Space"**) running between and among the Space and Antenna Space and to all necessary electrical and telephone utility sources located on the Property as necessary for the communications equipment; together with the non-exclusive right of ingress and egress from CITY's Right-of-Way, seven (7) days a week, twenty four (24) hours a day (provided, however, if lane closure is involved, subject to approved Permit or work restrictions due to holidays and storm emergencies), over the Property to and from the Premises (as hereinafter defined) for the purpose of installation, operation and maintenance of the Communications Facility. If no existing location or collocation can accommodate the proposed Communications Facility due to technical or physical circumstances, then, MOBILITIE may request Space for the construction and installation of new poles or ground-mountings. The Space, Antenna Space and Cabling Space are hereinafter collectively referred to as the **"Premises"** and shall be as described in each Permit to be executed by the Parties. In the event there are not sufficient electric, telephone, cable or fiber utility sources located on the Property, CITY agrees to grant MOBILITIE or the local utility provider the right to install such utilities on, over and/or under the Property necessary for MOBILITIE to operate its Communications Facility, provided that MOBILITIE or such utility provider has applied for and received a Permit in accordance with Paragraph 2 below. The Parties acknowledge that currently-existing policies of CITY, as well as of the Federal Highway Administration, prohibit utility location on fully-controlled-access roads such as the Interstate Highway System. Therefore, this Agreement shall cover only non-controlled-access routes.

2. **PERMITS.** Prior to commencing any work on the Property or the Premises, MOBILITIE shall have applied for and obtained an approved permit from the CITY's (**identify responsible contact person with the CITY**, (hereinafter a **"Permit"**). The Permit, if granted, will allow MOBILITIE the right to construct its Communications Facility and maintain a service utility line for a maximum distance of fifty-two feet (52') within the Right-of-Way. Each Permit shall be in accordance with all applicable provisions of the CITY Code as may be amended from time to time and the Utilities Accommodation Policy and Standards Manual (**"UAM"**) including all references contained therein to codes, rules, regulations, schedules, forms and appendix items, except Appendix B (Permit Forms and supporting Documents), promulgated by the Georgia Department of Transportation, as may be amended from time to time. MOBILITIE will apply for a Permit for each separate site for which MOBILITIE desires to locate a Communications Facility and abide by the terms of that Permit.

MOBILITIE shall use the Premises only in accordance with good engineering practices and in compliance with all applicable Federal Communications Commission (**"FCC"**), Federal, State, and Local laws, regulations and rules. With each permit application, MOBILITIE shall furnish the CITY with detailed construction plans and drawings for each individual Property and Premises, together with necessary maps, indicating specifically the existing poles to be used, the number and character of the attachments to be placed on such poles, equipment necessary for MOBILITIE's use, replacements of existing pole(s), any new or additional pole(s) which may be required (with specific dimensions and details), and any new installations for transmission conduit, pull boxes, and appurtenances.

MOBILITIE must obtain and submit to the CITY a structural engineering study carried out by a qualified structural engineer, showing that the pole(s) is (are) able to support the proposed facilities. If the study finds that any proposed structure is inadequate to support the proposed antenna loads, CITY may decline to permit installation. If the Permit is for construction and installation of new poles or ground-mountings, MOBILITIE must also submit evidence demonstrating the technical or physical circumstances that prevent the location or collocation of its Communications Facilities on existing Premises.

Regarding each individual Permit application, if, in the judgment of the CITY, MOBILITIE's use under the circumstances is undesirable, the CITY shall have the right to reject the Permit application in its reasonable discretion. In any event, within thirty (30) days after the receipt of such application, the CITY shall notify MOBILITIE in writing whether the application is approved or rejected and, in the case of rejection, the reason(s) why the application was rejected. Where an application is rejected and the reasons for rejection are capable of being cured, the CITY shall, if consistent with the procedures set forth in the CITY Code, provide MOBILITIE with a reasonable opportunity to cure the deficiencies in the application without having to re-submit a new application. Each individual Permit may be approved by the CITY Engineer/ CITY Manager or his/her designee.

In assessing Permit applications for the construction and installation of new poles or ground-mountings, the CITY will consider siting and location, height, setbacks, aesthetics and visibility, environmental standards, safety standards and other relevant factors related to the CITY'S desire to encourage location and collocation and the orderly development of telecommunications infrastructure. In all instances, location and collocation is preferred, followed by concealed or stealth configurations. New poles and ground-mountings should also be consistent with existing infrastructure in the Right-of-Way to the extent possible and should be designed, constructed, and operated to accommodate collocation of communications equipment, including communications equipment of other operators.

3. CITY OPERATION OF TRAFFIC LIGHT SIGNAL OR STREET LIGHT SYSTEM; EMERGENCIES.

MOBILITIE acknowledges that the Property, inclusive of the Premises, may be used to provide traffic control and street lighting for the residents of the CITY. The Parties agree that this Agreement does not in any way limit CITY's right to operate and maintain traffic lights and street lights in the manner that best enables the functioning thereof and protects public safety.

In case of an emergency arising from or related to the Communications Facilities ("emergency" being defined for purposes of this Agreement as an event which the CITY determines as posing an immediate threat of substantial harm or damage to the health, safety and welfare of the public and/or the Property and/or Premises), CITY shall have the right to act as necessary to protect the public health and safety of its citizens, and to protect public and private property. CITY will make every reasonable effort to coordinate its emergency response with MOBILITIE, provided, however, that where CITY requires emergency access to the Property and Premises, CITY shall contact MOBILITIE promptly and in no event later than twenty-four (24) hours after such access. During the course of said emergency, CITY may, in its reasonable discretion, remove the Communications Facilities, provided, however, that such removal, where possible, be performed only by qualified personnel. MOBILITIE shall be responsible for the costs arising out of such removal, unless the emergency that caused the removal was the result of the acts or omissions of the CITY or a third party. CITY shall give MOBILITIE notice of said removal as soon as practicable under the circumstances, and shall work in cooperation with MOBILITIE to restore the removed Communications Facilities expeditiously.

4. TERM; FEES. This Agreement shall be for a term of twenty-five years (the "Term") commencing upon the execution hereof by both Parties. Either Party may seek renewal of this Agreement by providing written notice to the other Party no less than six (6) months prior to expiration of the Term. Any renewal of this Agreement shall be on such terms as the Parties may mutually agree upon in writing. Each Permit shall have an initial term of five (5) years and said term shall commence upon execution of said Permit by both Parties (the "Commencement Date"). The Annual License Fee (as defined in Paragraph 5 hereunder) for all facilities installed pursuant to said Permit will commence and be due on the first day of the month following installation (the "License Fee Commencement Date"),

provided, however, that the initial Annual License Fee payment for each Permit shall be made thirty (30) days after the License Fee Commencement Date. Thereafter, on each annual anniversary of the License Fee Commencement Date, MOBILITIE shall pay the Annual License Fee. The Annual License Fee shall be paid to the CITY in accordance with Paragraphs 5 and 16 below. CITY and MOBILITIE agree that they shall acknowledge, in writing, the License Fee Commencement Date of each Permit.

5. CONSIDERATION. MOBILITIE shall pay to the CITY a license fee ("**Annual License Fee**"), which under this Agreement shall be as follows: (i) for new MOBILITIE poles or ground mountings and any Communications Facilities initially installed thereon by MOBILITIE, \$1,350.00 per site, per year, per Permit, which shall escalate each year by three percent (3%); (ii) for attachments of Communications Facilities to third-party poles, \$500.00 per site, per year, per Permit. Further, MOBILITIE shall pay to the CITY a fee of \$500.00 per year for any other carrier that subsequently collocates communications equipment on a new MOBILITIE pole or ground mounting beyond the initial installation of Communications Facilities thereon (the "**Rental Fee**").

Any payment not made within thirty (30) days from the due date shall bear interest at the rate of 1.5% per month until paid, or if 1.5% exceeds the maximum rate allowed by law, then at the maximum rate allowed by law. The Parties agree that they will renegotiate the Annual License Fee and the Rental Fee by the date that is ten (10) years from the date of this Agreement (the "**Renegotiation Deadline**"), and that should the Parties fail to successfully renegotiate the Annual License Fee or the Rental Fee by the Renegotiation Deadline, either Party may elect to terminate this Agreement upon sixty (60) days' notice to the other Party.

6. EXTENSIONS. So long as the Term is still in effect, each Permit shall automatically be extended for four (4) additional five (5) year terms unless terminated by MOBILITIE via written notice of the intent to terminate at least thirty (30) days prior to the end of the then-current term. Notwithstanding anything herein, after the expiration of this Agreement, its terms and conditions shall survive and govern with respect to any remaining Permit in effect until the expiration of its then-current term, or until termination.

7. USE; GOVERNMENTAL APPROVALS. MOBILITIE shall use the Premises for the purpose of constructing, maintaining, repairing and operating a Communications Facility and uses incidental thereto as set forth in the Permit. MOBILITIE shall have the right to replace, repair, add or otherwise modify the utilities, equipment, antennas and/or conduits or any portion thereof and the frequencies over which the equipment operates, whether the equipment, antennas, conduits or frequencies are specified or not on any exhibit attached to a Permit, during the Term as per the permitting procedures in the UAM, applicable CITY Code, and state and federal law, provided, however, that modifications shall not be subject to additional permitting to the extent that (i) such modification to the attachment involves only substitution of internal components, and does not result in any change to the external appearance, dimensions, or weight of the attachment, as approved by the CITY; or (ii) such modification involves replacement of the attachment with an attachment that is the same, or smaller in weight and dimensions as the approved attachment. It is understood and agreed that MOBILITIE's ability to use the Premises is contingent upon its obtaining, after the execution date of each Permit, all of the certificates, permits and other approvals (collectively the "**Governmental Approvals**") that may be required by any Federal, State or Local authorities as well as, where applicable, a satisfactory building structural analysis which will permit MOBILITIE use of the Premises as set forth above. CITY shall cooperate with MOBILITIE in its effort to obtain such approvals and, except as otherwise provided in Paragraph 2 of this Agreement, shall take no action which would adversely affect the status of the Property or the Premises

with respect to the proposed use thereof by MOBILITIE. In the event that (i) any applications for any Governmental Approvals should be finally rejected; (ii) any such Governmental Approval issued to MOBILITIE is canceled, expires, lapses, or is otherwise withdrawn or terminated by governmental authority; and (iii) MOBILITIE determines that such Governmental Approvals may not be obtained in a timely manner, MOBILITIE shall have the right to terminate the applicable Permit. Notice of MOBILITIE's exercise of its right to terminate shall be given to CITY in accordance with the notice provisions set forth in Paragraph 16 and shall be effective upon the mailing of such notice by MOBILITIE, or upon such later date as designated by MOBILITIE. All fees paid to said termination date shall be retained by CITY. Upon such termination, the applicable Permit shall be of no further force or effect except to the extent of the representations, warranties and indemnities made by each Party to the other thereunder. Otherwise, MOBILITIE shall have no further obligations for the payment of fees to CITY for the terminated Permit.

8. INDEMNIFICATION. MOBILITIE shall indemnify and hold CITY harmless against any claim of liability or loss from personal injury or property damage resulting from or arising out of the negligence or willful misconduct of MOBILITIE, its employees, contractors or agents, except to the extent such claims or damages may be due to or caused by the negligence or willful misconduct of CITY, or its employees, contractors or agents. Notwithstanding any other provision of this Agreement, no Party shall be liable in connection with this Agreement or any Permit for consequential, special, indirect, incidental, or punitive damages (including but not limited to lost revenues, loss of equipment, interruption or loss of service, or loss of data) for any cause of action, whether in contract, tort, or otherwise, even if the Party was or should have been aware of the possibility of these damages, whether under theory of contract, tort (including negligence), strict liability, or otherwise.

9. INSURANCE. MOBILITIE will maintain commercial general liability insurance with a combined single limit not less than \$2,000,000 for injury to or death of one or more persons and damage or destruction to property in any one occurrence. MOBILITIE will include CITY as an additional insured.

10. INTERFERENCE. MOBILITIE agrees to install equipment of the type and frequency which will not cause harmful interference which is measurable in accordance with then-existing industry standards to any equipment of CITY or other permitted users of the Property which existed on the Property prior to the date this Agreement is executed by the Parties. In the event any after-installed Communications Facility causes such interference, and after CITY has notified MOBILITIE in writing of such interference, MOBILITIE will take all commercially reasonable steps necessary to correct and eliminate the interference, including but not limited to, at MOBILITIE's option, powering down such equipment and later powering up such equipment for intermittent testing. In no event will CITY be entitled to terminate a Permit or relocate the equipment as long as MOBILITIE is making a good faith effort to remedy the interference issue. CITY shall, with reasonable notice to MOBILITIE, be entitled to power down immediately or cause to be powered down the Communications Facility where the interference is with traffic-control devices. CITY shall provide MOBILITIE no less than thirty (30) days of any planned or routine maintenance of traffic control devices located where MOBILITIE has installed its facilities. CITY agrees that any other permitted users of the Property who currently have or in the future take possession of the Property will be permitted to install only such equipment that is of the type and frequency which will not cause harmful interference which is measurable in accordance with then-existing industry standards to the then-existing equipment of MOBILITIE. The Parties acknowledge that there will not be an adequate remedy at law for noncompliance with the provisions of this Paragraph and therefore, either Party shall have the right to equitable remedies, such as, without limitation, injunctive relief and specific performance.

11. REMOVAL AT END OF TERM; ABANDONMENT OF RIGHT-OF-WAY. MOBILITIE shall, upon expiration of the Term, or within ninety (90) days after any earlier termination of a Permit, remove its equipment, conduits, fixtures and all personal property and restore the Premises to its original condition, reasonable wear and tear and casualty damage excepted. CITY agrees and acknowledges that the Communications Facilities, conduits, fixtures and personal property shall remain the personal property of MOBILITIE and MOBILITIE shall have the right to remove the same at any time during the Term, whether or not said items are considered fixtures and attachments to real property under applicable laws.

The Parties recognize that CITY may hold an easement interest only in certain of its rights-of-way. Upon abandonment by CITY of a highway or section thereof, MOBILITIE may have no rights against the owner of the underlying fee estate to maintain its facilities. MOBILITIE shall have no right to cause CITY to continue to operate the road. In the event, in its sole discretion, CITY determines it is in the public interest to abandon said Right-of-Way, the applicable Permit shall terminate upon sixty (60) days' notice to MOBILITIE prior to abandonment (or, in the cases of exigency, such notice as is reasonable under the circumstances) and no further fees will accrue.

12. RIGHTS UPON SALE. Except as provided in Paragraph 11 above regarding abandonment, should CITY, at any time during the Term of any Permit decide (i) to sell or transfer all or any part of the Property to a purchaser other than MOBILITIE, or (ii) to grant to a third party by easement or other legal instrument an interest in and to that portion of the Property occupied by MOBILITIE, or a larger portion thereof, for the purpose of operating and maintaining Communications Facilities or the management thereof, such sale or transfer, or grant of an easement or interest therein shall be under and subject to the Permit and any such purchaser, transferee or grantee shall recognize MOBILITIE'S rights hereunder and under the terms of the Permit. In the event that CITY completes any such sale, transfer, or grant described in this Paragraph without executing an assignment of the Permit whereby the third party agrees in writing to assume all obligations of CITY under the Permit, then CITY shall not be released from its obligations to MOBILITIE under the Permit, and MOBILITIE shall have the right to look to CITY and the third party for the full performance of the Permit.

13. MOBILITIE'S RIGHT OF TERMINATION. Notwithstanding any other provision of this Agreement, MOBILITIE may, in its sole discretion, terminate any Permit on thirty (30) days' notice to the CITY at any time without any further liability for any Annual License Fees attributable to said Permit, so long as MOBILITIE is not in default with respect to said Permit.

14. GOVERNING LAW AND VENUE. This Agreement is a Georgia agreement made under the laws of the State. It will be enforced according to Georgia law without regard to its conflict of laws rules or any other rules directing referral to foreign law or forums. Each Party hereby agrees to execute an acknowledgment of service of process at the request of the other Party in any litigation related to this Agreement. In the event that a Party does not provide an acknowledgment of service as agreed, each Party consents to service of process at that Party's address as set forth in Paragraph 16 (Notices).

15. ASSIGNMENT. This Agreement, and each Permit under it, may be sold, assigned or transferred by MOBILITIE without any approval or consent of the CITY to any parent, subsidiary, affiliate, or any person, firm or corporation that shall control, be under the control of, or be under common control with MOBILITIE, or to any entity into which MOBILITIE may be merged or consolidated or which purchases substantially all of the assets of MOBILITIE that are subject to this Agreement. As to other parties, this Agreement and each Permit may not be sold, assigned or transferred without the written

consent of the CITY, which such consent will not be unreasonably withheld, delayed or conditioned. No change of stock ownership, partnership interest or control of MOBILITIE or transfer upon partnership or corporate dissolution of MOBILITIE shall constitute a sale, assignment, or transfer hereunder. Notwithstanding the foregoing, MOBILITIE may provide capacity across the Communications Facilities to a third party without the consent required under this paragraph, so long as MOBILITIE retains control over and remains solely responsible for such Communications Facilities. The use of the Communications Facilities by third parties (including, but not limited to, leases of dark fiber) that involves no additional attachment is not considered a sublicense to a third party subject to the provisions of this paragraph. MOBILITIE shall provide written notice of all sales, assignments or transfers within 60 days thereof.

16. NOTICES. All notices hereunder must be in writing and shall be deemed validly given if sent by certified mail, return receipt requested or by commercial courier, provided the courier's regular business is delivery service and provided further that it guarantees delivery to the addressee by the end of the next business day following the courier's receipt from the sender, addressed as follows (or any other address that the Party to be notified may have designated to the sender by like notice):

CITY Attn: Manager
 City name
 Mailing Address
 City, State, Zip Code

MOBILITIE: Attn: Legal Department
 MOBILITIE, LLC
 2220 University Drive
 Newport Beach, CA 92660

Notice shall be effective upon actual receipt or refusal as shown on the receipt obtained pursuant to the foregoing.

17. DEFAULT. In the event there is a breach by a Party with respect to any of the provisions of this Agreement or its obligations hereunder, the non-breaching Party shall give the breaching Party written notice of such breach. After receipt of such written notice, the breaching Party shall have thirty (30) days in which to cure any breach, provided the breaching Party shall have such extended period as may be required beyond the thirty (30) days if the breaching Party commences the cure within the thirty (30) day period and thereafter continuously and diligently pursues the cure to completion. The non-breaching Party may not maintain any action or effect any remedies for default against the breaching Party unless and until the breaching Party has failed to cure the breach within the time periods provided in this Paragraph.

18. REMEDIES. In the event of a default by either Party with respect to a material provision of this Agreement, without limiting the non-defaulting Party in the exercise of any right or remedy which the non-defaulting Party may have by reason of such default, the non-defaulting Party may, after fifteen (15) days written notice and an additional fifteen (15) days to cure such default, terminate the applicable Permit and/or pursue any remedy now or hereafter available to the non-defaulting Party under the laws or judicial decisions of the State of Georgia. Further, upon a default, the non-defaulting Party may at its option (but without obligation to do so), perform the defaulting Party's duty or obligation on the defaulting Party's behalf, including but not limited to, obtaining of reasonably required insurance policies. The costs and expenses of any such performance by the non-defaulting Party shall be

due and payable by the defaulting Party upon invoice therefor. If MOBILITIE undertakes any such performance on CITY's behalf and CITY does not pay MOBILITIE the full undisputed amount within thirty (30) days of its receipt of an invoice setting forth the amount due, MOBILITIE may offset the full undisputed amount due against all fees due and owing to CITY under the applicable Permit until the full undisputed amount is fully reimbursed to MOBILITIE.

19. ENVIRONMENTAL. Except as permitted by law, neither Party will allow any hazardous substances, including without limitation, any and all pollutants, wastes, flammables, explosives, radioactive materials, hazardous materials, hazardous wastes, hazardous or toxic substances and all other materials defined by or regulated under any Environmental Law, including those defined by the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), 42 U.S.C. § 9604, pollutants or contaminants as defined in CERCLA, 42 U.S.C. § 9604(A)(2), or hazardous waste as defined in the Resources Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6903, or other similar applicable Federal or State laws or regulations, to be generated, released, stored, or deposited over, beneath, or on the Premises or Property or on any structures located on the Premises from any source whatsoever.

20. CASUALTY. In the event of damage by fire or other casualty to the Premises that cannot reasonably be expected to be repaired within thirty (30) days following same or, if the Property is damaged by fire or other casualty so that such damage may reasonably be expected to disrupt MOBILITIE's operations at the Premises for more than thirty (30) days, then MOBILITIE may, at any time following such fire or other casualty, provided CITY has not completed the restoration required to permit MOBILITIE to resume its operation at the Premises, may terminate the Permit upon fifteen (15) days prior written notice to CITY. Any such notice of termination shall cause the Permit to expire with the same force and effect as though the date set forth in such notice were the date originally set as the expiration date of the Permit and the Parties shall make an appropriate adjustment, as of such termination date, with respect to payments due to the other under the Permit. Notwithstanding the foregoing, the Annual License Fee and the Rental Fee shall abate during the period of repair following such fire or other casualty in proportion to the degree to which MOBILITIE's use of the Premises is impaired.

21. AUTHORIZED ENTITIES. This Agreement is entered into by the Parties each on its own behalf and for the benefit of: (i) any entity in which the Party directly or indirectly holds an equity or similar interest; (ii) any entity which directly or indirectly holds an equity or similar interest in the Party; or (iii) any entity directly or indirectly under common control with the Party. Each Party and each of the entities described above are referred to herein as an "Authorized Entity". No obligation is incurred or liability accepted by any Authorized Entity until that Authorized Entity enters into a site specific Permit. Only the Party and the Authorized Entity executing a Permit are responsible for the obligations and liabilities related thereto arising under that Permit and this Agreement. All communications and invoices relating to a Permit must be directed to the Authorized Entity signing the Permit. A default by any Authorized Entity will not constitute or serve as a basis for a default by any other Authorized Entity not a party to the applicable Permit.

22. CHANGE OF LAW. If any Federal, State or Local laws or regulations (including binding non-appealable judicial interpretations thereof) that govern any aspect of the rights or obligations of the Parties under this Agreement shall change after the Effective Date and such change makes such rights or obligations in violation with the then-effective law, then the Parties agree to promptly amend, by mutual agreement, the Agreement as reasonably required to comply with any such legal or regulatory

change; provided, however, that where such change of law mandates modification of the consideration to be paid pursuant to Paragraph 5 of this Agreement, said change of law shall apply only to Communications Facilities for which Permits are issued on or after the effective date of said change of law.

23. MISCELLANEOUS. This Agreement and the Permits that may be executed from time to time hereunder contain all agreements, promises and understandings between the CITY and MOBILITIE regarding this transaction, and no oral agreement, promises or understandings shall be binding upon either the CITY or MOBILITIE in any dispute, controversy or proceeding. If any part of any provision of this Agreement shall be held to be invalid or unenforceable under applicable law, said part shall be ineffective to the extent of such invalidity or unenforceability only, without in any way affecting the remaining parts of said provision or the remaining provisions of this Agreement. This Agreement may not be amended or varied except in a writing signed by all Parties. This Agreement shall extend to and bind the heirs, personal representatives, successors and assigns hereto. The failure of either Party to insist upon strict performance of any of the terms or conditions of this Agreement or to exercise any of its rights hereunder shall not waive such rights, and such Party shall have the right to enforce such rights at any time. The performance of this Agreement via each Permit shall be governed interpreted, construed and regulated by the laws of the State of Georgia (now and as it may be amended or interpreted in the future), without reference to its conflicts of law principles. This Agreement is subject to all applicable Federal, State and Local laws, and regulations, rulings and orders of governmental agencies.

IN WITNESS WHEREOF, the Parties hereto have set their hands and affixed their respective seals the day and year first above written and have caused this Agreement to be executed in separate counterparts, each to be considered an original by their authorized representative.

[Remainder of page intentionally left blank; signature page to follow.]

WITNESS

CITY:

_____, GEORGIA

By: _____
Name: _____
Title: _____
Date: _____

WITNESS

MOBILITIE, LLC

By: _____
Name: _____
Title: _____
Date: _____

EXHIBIT B

**(Please refer to attached PDF File “Exhibit B – GMA Filing 16-421 Mobilitie App
06302016”**

Exhibit C

GMA Model Right of Way Permit Ordinance

ORDINANCE NUMBER _____

**An Ordinance⁹ to create Chapter ____ of the
Official Code of the City of _____, Georgia
to be known as “Streets, Sidewalks and Other Public Places”,
in order to administer and regulate the
Public right-of-way in the public interest, and to provide for the
Issuance and regulation of right-of-way permits**

WHEREAS, pursuant to Section _____ of the Charter of the City of _____ (“City”), the City is empowered to regulate roadside areas, including rights-of-way;

WHEREAS, pursuant to O.C.G.A. 36-76-1 et seq. known as the “Consumer Choice for Television Act” of 2007 the City retains regulatory powers over certain activity of cable and video providers with respect to public rights-of-way within or belonging to the City; and,

WHEREAS, pursuant to O.C.G.A. 46-5-1 et seq. telephone companies shall comply with all applicable local laws and regulations, including municipal ordinances and regulations, regarding the placement and maintenance of facilities in the public rights of way that are reasonable, nondiscriminatory, and applicable to all users of the public rights of way within or belonging to the City; and,

WHEREAS, the City desires to establish reasonable nondiscriminatory regulations for the installation construction, maintenance, renewal, removal and relocations of Utility Facilities that are not more restrictive than equivalent regulations promulgated by the Georgia Department of Transportation with respect to Utilities on the state highway system under authority of O.C.G.A. 32-4-70;

NOW, THEREFORE, BE IT ORDAINED AND ESTABLISHED by the Mayor and Council of the City of _____, Georgia as follows:

SECTION 1

The Code of Ordinances of the City of _____ is hereby amended by adding a new Chapter ____, Articles 1-9, entitled “Utility Accommodation Policy”, as follows:

⁹ This sample ordinance is provided to your city/county to facilitate participation in GMA's Cable and Telecommunications Management Services Program and the management of rights of ways by your jurisdiction. The GMA program is a consulting service and does not constitute legal advice. You should consult with your city attorney and have your city attorney review this ordinance before it is adopted.

Article 1
DECLARATION OF FINDINGS AND PURPOSE, SCOPE, DEFINITIONS

Section 1.1 Intent and Purpose. The City of _____ (the "City") is vitally concerned with the use, construction within, and occupancy of all Rights of Way in the City as such Rights of Way are a valuable and limited resource which must be utilized to promote the public health, safety, welfare, economic development of the City and to protect public work infrastructure. Therefore, the City, under the authority of the Laws and Constitution of the State of Georgia, including but not limited to Article 9, Section 1, paragraphs 2 and 3 of the Georgia Constitution, O.C.G.A. 36-1-20 and O.C.G.A. 32-4-42(6), has adopted this ordinance for the purpose of regulating public and private entities which use the City Rights of Way.

Section 1.2 Scope. The provisions of this Chapter shall apply to all Utilities and Facilities occupying the Rights of Way as provided herein.

Section 1.3 Definitions. For the purposes of this Chapter, the following terms, phrases, words, and their derivations have the meanings set forth herein. The words "shall" and "will" are mandatory and "may" is permissive. Words not defined shall be given their common and ordinary meaning. References hereafter to "Sections" are, unless otherwise specified, references to Sections in this Chapter. Defined terms remain defined terms whether or not capitalized.

1. City means the City of _____, Georgia;
2. Codified Ordinances means the Codified Ordinances of the City of _____, Georgia;
3. Construct means, but shall not be limited to, dig, bore, tunnel, trench, excavate, obstruct, install or remove signs, or Facilities, other than landscaping or ornamental plantings, in, on, above, within, over, below, under, or through any part of the Rights of Way. Construct shall also include the act of opening and/or cutting into the surface of any paved or improved surface that is any part of the Right of Way;
4. Construction means, but shall not be limited to, the act or process of digging, boring, tunneling, trenching, excavating, obstructing, installing or removing signs or Facilities, other than landscaping or ornamental plantings, in, on, above, within, over, below, under, or through any part of the Rights of Way. Construction shall also include the act of opening, boring and/or cutting into the surface of any part of the Right of Way;
5. Director means the _____ of the City of _____, Georgia, or his or her designee;

6. Emergency means a condition that poses a clear and immediate danger to life, health, or safety of a person, or of significant damage or loss of real or personal property;
7. Facility or Facilities means any tangible thing, including but not limited to pipes, mains, conduits, cables, wires, poles, towers, traffic and other signals, and other equipment, appurtenances, appliances and future technology of any Utility in, on, along, over, or under any part of the Rights of Way within the City;
8. Facilities Representative(s) means the specifically identified agent(s)/employee(s) of a Utility who are authorized to direct field activities of that Utility and serve as official notice agent(s) for Facilities related information. Utility shall be required to make sure at least one (1) of its Facilities Representatives available at all times to receive notice of, and immediately direct response to, Facilities related emergencies or situations;
9. FCC means the Federal Communications Commission or any successor thereto;
10. Permit means an authorization which grants permission to conduct specific regulated activities on, in, over, under or within any public right-of-way, and which may be subject to conditions specified in a written agreement with the City or in a related provision of this Code of Ordinances;
11. Right(s) of Way means the surface and space in, on, above, within, over, below, under or through any real property in which the City has an interest in law or equity, whether held in fee, or other estate or interest, or as a trustee for the public, including, but not limited to any public street, boulevard, road, highway, freeway, lane, alley, court, sidewalk, parkway, or any other place, area, or real property owned by or under the legal or equitable control of the City, now or hereafter, that consistent with the purposes for which it was dedicated, may be used for the purposes of constructing, operating, repairing or replacing Facilities;
12. Service(s) means the offering of any service by a Utility for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, or alternatively, the provision of any service by a Utility between two or more points for a proprietary purpose to a class of users other than the general public;
13. Service Agreement means a valid license agreement, service agreement, franchise agreement, or operating agreement issued by the City or state pursuant to Law and accepted by a Utility or entered into by and between the City and a Utility, which allows such Utility to operate or provide service within the geographic limits of the City;
14. Street or Streets means the surface of, as well as the spaces above and below, any and all the streets, alleys, avenues, roads, bridges, tunnels and public places of the

City within the corporate limits of the City, as the same now exist or may be hereafter extended or altered, and any location thereon, thereover or thereunder, and any portion thereof;

15. Transfer means the disposal by the Utility, directly or indirectly, by gift, assignment, sale, merger, consolidation, or otherwise, of more than fifty percent (50%) at one time of the ownership or controlling interest in the Facilities, or of more than fifty percent (50%) cumulatively over the term of a written approval of Registration of such interests to a corporation, partnership, limited partnership, trust, or association, or person or group of persons acting in concert;
16. Unused Facilities means Facilities located in the Rights of Way which have remained unused for twelve (12) months and for which the Utility is unable to provide the City with a plan detailing the procedure by which the Utility intends to begin actively using such Facilities within the next twelve (12) months, or that it has a potential purchaser or user of the Facilities who will be actively using the Facilities within the next twelve (12) months, or, that the availability of such Facilities is required by the Utility to adequately and efficiently operate its Facilities;
17. Utility or Utilities means All privately, publicly, or cooperatively owned systems for producing, transmitting, or distributing communication, data, information, telecommunication, cable television, video services, power, electricity, light, heat, gas, oil, crude products, water/sewer, steam, fire and police signals, traffic control devices, and street lighting systems, and housing or conduit for any of the foregoing, which directly or indirectly serve the public or any part thereof. The term "utility" may also be used to refer to the owner, operator, Utility, service, contractor or subcontractor, or any agent thereof, of any above-described utility or utility facility.

Article 2 UTILITY REGISTRATION

Section 2.1 Registration Required. Each Utility who occupies, uses or has Facilities in the Rights of Way at the time of passage of this Ordinance, including by lease, sublease or assignment, to operate Facilities located in the Rights of Way, unless specifically exempted by state or federal law or this Code, shall file a Registration Statement with the Department within ninety (90) days of the effective date of this Ordinance.

Section 2.2 Registration Procedure. The Registration information provided to the City shall be on a form approved by the City and include, but not be limited to:

1. The name, legal status (i.e. partnership, corporation, etc.), street address, email address, and telephone and facsimile numbers of the Utility filing the Registration Statement (the "Registrant"). If the Registrant is not the owner of the Facility in

the Right of Way, the Registration shall include the name, street address, email address if applicable, and telephone and facsimile numbers of the owner;

2. The name, street address, email address if applicable and telephone and facsimile numbers of one (1) or more Facilities Representative(s). Current information regarding how to contact the Facilities Representative(s) in an Emergency shall be provided at the time of filing a Registration and shall be updated as necessary to assure accurate contact information is available to the City at all times;
3. A copy, if requested, of the Utility's certificate of authority (or other acceptable evidence of authority to operate) from the Georgia Public Service Commission and/or the FCC and any other similar approvals, permits, or agreements.
4. A copy, if requested, of the Service Agreement, if applicable or other legal instrument that authorizes the Utility to use or occupy the Right of Way for the purpose described in the Registration.

Section 2.3 Incomplete Registration. If a Registration is incomplete, the Director shall notify the Registrant and shall provide a reasonable period of time in which to complete the Registration. If a Registration is complete, the Director shall so notify the Utility in writing.

Section 2.4 Acceptance of the Registration shall not convey title in the Rights of Way. Acceptance of the Registration is only the nonexclusive, limited right to occupy Rights of Way in the City for the limited purposes stated in the Acceptance. Acceptance of the Registration does not excuse a Utility from obtaining Permits required by City ordinances nor from obtaining appropriate access or pole attachment agreements before using the Facilities of others, including the City. Acceptance of the Registration does not excuse a Utility from notifying the City of Construction as required herein.

Section 2.5 Facilities in Place without Registration. Beginning one year after the effective date of this Chapter, any Facilities or part of a Facility found in a Right of Way for which registration is required but has not been obtained unless specifically exempted by law, and for which no valid Service Agreement exists with the City, may be deemed to be a nuisance and an unauthorized use of the Rights of Way. The City may exercise any remedies or rights it has at law or in equity, including, but not limited to abating the nuisance; taking possession of the Facilities, evicting the Utility from the Right of Way; prosecuting the violator; and/or any other remedy provided by City ordinance or otherwise allowed in law or in equity.

Article 3 CONSTRUCTION PERMITS

Section 3.1 Permit Required. It shall be unlawful for any Utility to excavate or to construct, install, maintain, renew, remove or relocate Facilities in, on, along, over or

under the public roads of the City without a Utility permit from the Department of _____ in accordance with the terms of this Chapter.

Section 3.2 Permit Procedure. Utility Permits shall be obtained from the Director (or such other person as the City Manager may designate) upon application made on forms prescribed by the Department of _____. The written application shall include the following:

1. The name and address of the Utility;
2. The nature, extent, and location of any work proposed to be done, along with satisfactory plans as attachments showing in detail the location of the proposed Facility or operations as described in the Permit application. The plans shall show the size or capacity of Facilities to be installed; their relationship to Street features such as right-of-way lines, pavement edge, structures, etc., horizontal and vertical clearance to critical elements of the roadway and any other information necessary to evaluate the impact on the Street and its operation;
3. The name and address of the person or firm who is to do such work;
4. The name, street address, email address if applicable and telephone and facsimile numbers of one (1) or more Facilities Representative(s).
5. The projected dates for the work to be started and finished;
6. An indemnity bond or other acceptable security in an amount to be set by the City to pay any damages to any part of the City road system or other City property or to any city employee or member of the public caused by activity or work of the Utility performed under authority of the permit issued;
7. A copy, if requested, of the Registrant's certificate of authority (or other acceptable evidence of authority to operate) from the Georgia Public Service Commission and/or the FCC and any other similar approvals, permits, or agreements; and
8. A copy, if requested, of the service agreement, if applicable or other legal instrument that authorizes the Utility to use or occupy the Right of Way for the purpose described in the application.

Section 3.3 Permit Fees. Fees shall be determined by the Director, subject to the approval by resolution of the City Council. A fee schedule shall be available at the offices of the Director and the City Clerk and open for public inspection.

Section 3.4 Issuance of Permit. If the Director determines the Applicant has satisfied the following requirements, the Director may issue a permit.

1. Whether issuing of the approval will be consistent with this Chapter; and
2. Whether Applicant has submitted a complete Application and has secured all certificates and other authorizations required by law, if applicable, in order to construct Facilities in the manner proposed by the Applicant; and
3. The impact on safety, visual quality of the streets, traffic flow, and other users of the right of way and the difficulty and length of time of the Project, construction or maintenance.

Section 3.5 Emergency Situations.

1. Each Utility shall, as soon as reasonably practicable, notify the Director of any event regarding its Facilities which it considers to be an Emergency. The Utility may proceed to take whatever actions are necessary in order to respond to the Emergency. A Utility who engages in an emergency excavation shall take all reasonable precautions to avoid or minimize damage to any existing facilities.
2. In the event that the City becomes aware of an Emergency regarding Utility Facilities, the City may attempt to contact the affected Utility or Facilities Representative. The City may take whatever action it deems necessary in order to respond to the Emergency, including cut or move any of the wires, cables, amplifiers, appliances, or other parts of the Facilities. The City shall not incur any liability to the Utility, for such emergency actions, and the cost of such shall be paid by each Utility affected by the Emergency

Section 3.6 Effective Period of Permit.

1. Each permit shall have a set commencement and expiration date based on information provided in the applicant's permit application.
2. The Permit shall remain in place Construction is completed or until its expiration date unless the Utility is in default. The Director may give written notice of default to a Utility if it is determined that a Utility has
 - a. Violated any provision or requirement of the issuance or acceptance of a Permit application or any law of the City, state, or federal government;
 - b. Attempted to evade any provision or requirement of this Chapter;
 - c. Practiced any fraud or deceit upon the City; or
 - d. Made a material misrepresentation or omission of fact in its Permit application.

Section 3.7 Cancellation for Cause. If a Utility fails to cure a default within twenty (20) Working Days after such notice is provided to the Utility by the City, then such

default shall be a material breach and City may exercise any remedies or rights it has at law or in equity to terminate the Permit. If the Director decides there is cause or reason to terminate, the following procedure shall be followed:

1. City shall serve a Utility with a written notice of the reason or cause for proposed termination and shall allow a Utility a minimum of fifteen (15) calendar days to cure its breach.
2. If the Utility fails to cure within fifteen (15) calendar days, the City may declare the Permit terminated.

Section 3.8 Expiration of Permit. If work is not begun within six (6) months of the date of issuance, the permit will automatically expire.

Article 4 REQUIRED MINIMUM STANDARDS

Section 4.1 Utility Accommodation Manual Adopted. The 2009 Utility Accommodation Policy and Standards manual, including all references contained therein to codes, rules, regulations, schedules, forms and appendix items, except Appendix B (Permit Forms and supporting Documents), promulgated by the State of Georgia Department of Transportation, as may be amended from time to time is hereby adopted by reference and incorporated in the article as if fully set forth herein, subject to the amendments and modification contained in this Chapter. A copy of the manual shall be maintained at the offices of the Director or his designee and open for public inspection. Any conflicts between the provisions of this ordinance and the manual shall be resolved in favor of the manual. References to State personnel, agencies, and fees shall be interpreted, where required, as meaning the City of _____ municipal equivalents

Section 4.2 Protection of Traffic and Roadway. Unless specifically in the Permit, no Utility may occupy the City Rights of Way unless sufficient space is available so that the free flow and safety of traffic and other capacity considerations are not unduly impaired and the installation does not prevent the Department from reasonably maintaining the streets, structures, traffic control devices and other appurtenant facilities, and further provided that maintenance and operations of the Facilities do not jeopardize the traffic, street structure, other users of the right of way or the right of way itself.

Section 4.3 Grading: If the grades or lines of any street within the City Right of Way are changed at any time by the City during the term of the permit and this change involves an area in which the Utility's Facilities are located, then the Utility shall, at its own cost and expense and upon the request of the City upon reasonable notice, protect or promptly alter or relocate the Facilities, or any part thereof, so as to conform with such new grades or lines. In the event the Utility refuses or neglects to so protect, alter, or relocate all or part of the Facilities, the City shall have the right to break through, remove, alter, or relocated all or any part of the Facilities without any liability to the Utility and

the Utility shall pay to the City the costs incurred in connection with such breaking through, removal, alteration, or relocation.

Section 4.4 Installation of Poles and Other Wireholding Structures and Relocation.

Unless otherwise provided in a valid service agreement, no placement of any pole or wireholding structure of the Utility is to be considered a vested interest in the Right of Way, and such poles or structures are to be removed, relocated underground, or modified by the Utility at its own expense whenever the City determines that the public convenience would be enhanced thereby. The Facilities shall be so located and installed as to cause minimum interference with the rights and convenience of property owners.

Section 4.5 As provided in O.C.G.A § 25-9-6 (the Georgia Utility Facility Protection Act) and other applicable state law currently in place or as amended, no Utility shall commence, perform, or engage in blasting or in excavating with mechanized excavating facilities unless and until the Utility planning the blasting or excavating has given 48 hours' notice by submitting a locate request to the Utility Protection Center, beginning the next Working Day after such notice is provided, excluding hours during days other than Working Days.

Article 5 RESTORATION OF PROPERTY

Section 5.1 Each Utility shall be responsible for the cost of repairing any Facilities in the Rights of Way and adjoining property or other Facilities which it or its Facilities damage.

Section 5.2 A Utility shall be liable, at its own cost and expense, to replace, restore or repair, any Street, Facilities or property or structure thereon, thereunder, thereover or adjacent thereto that may become disturbed or damaged as a result of the Construction or installation, operation, upgrade, repair or removal of Facilities to a condition as good as or better than its condition before the work performed by the Utility that caused such disturbance or damage. If the Utility does not commence such replacement or repair after twenty (20) Working Days following written notice from the City, the City or the owner of the affected structure or property may make such replacement or repair and the Utility shall pay the reasonable and actual cost of the same.

Article 6 INSPECTION

Section 6.1 The Utility shall make the Construction site available to the Director and to all others as authorized by Law for inspection at all reasonable times during the execution and upon completion of the Construction.

Section 6.2 At any time, including the time of inspection, the Director may order the immediate cessation of any work which poses a serious threat to the health, safety, or welfare of the public, violates any law, or which violates the terms and conditions of the Permit and/or this Chapter or issue an order to correct work which does not conform to the Permit and/or applicable standards, conditions or codes.

Section 6.3 When the Construction under any Permit is completed, the Utility shall notify the Department.

Article 7 OTHER APPROVALS, PERMITS AND AGREEMENTS

Section 7.1 Additional Permits Required. The Utility shall obtain all construction, building or other permits or approvals as according to City ordinance, state or federal law. In addition, a Permittee shall comply with all requirements of laws, shall complete work in a way as to not cause any unnecessary or unauthorized obstructions of sidewalks, streets, waterways or railways, and is responsible for all work done in the Rights of Way regardless of who performs the work. No Rights of Way obstruction or excavation may be performed when seasonally prohibited or when conditions are unreasonable for such work, except in the case of an Emergency as outlined in Article II, Section 7 (B).

Article 8

PENALTIES

Section 8.1 Every Utility convicted of a violation of any provision of this chapter shall be punished by a fine not exceeding one thousand dollars (\$1,000.00) per violation. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty prescribed above, the city may pursue other remedies such as abatement of nuisances, injunctive relief and revocation of licenses or permits.

Article 9 OTHER PROVISIONS

Section 9.1 Severability. If any section, subsection, sentence, clause, phrase, or portion of this Chapter is for any reason held invalid or unconstitutional by any court or administrative agency of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

Section 9.2 Reservation of Regulatory and Police Powers. The City by issuing a written approval of Registration under this Chapter, does not surrender or to any extent lose, waive, impair, or lessen the lawful powers and rights, which it has now or may be hereafter vested in the City under the Constitution and Laws of the United States, State of Georgia and the City Charter, and under the provisions of the City's Codified Ordinances to regulate the use of the Rights of Way. The Utility by applying for and being issued a written Permit, is deemed to acknowledge that all lawful powers and rights, regulatory power, or police power, or otherwise as are or the same may be from time to time vested in or reserved to the City, shall be in full force and effect and subject to the exercise thereof by the City at any time. A Utility is deemed to acknowledge that its interests are subject to the regulatory and police powers of the City to adopt and enforce general ordinances necessary to the safety and welfare of the public and is deemed to agree to comply with all applicable general laws enacted by the City pursuant to such powers. In particular, all Utilities shall comply with City zoning and other land use requirements pertaining to the placement and specifications of Facilities.

Section 9.3 Compliance. No Person shall be relieved of its obligation to comply with any of the provisions of this Chapter by reason of any failure of City to enforce compliance.

Section 9.4 Appeal of Administrative Decisions. All appeals provided for by this chapter and any notification to the City required by this Chapter shall be in writing and sent via certified mail to the Director as specified in this Chapter.

Section 9.5 Chapter Headings. Chapter headings are for convenience only and shall not be used to interpret any portion of this Chapter

SECTION 2

Except as provided otherwise herein, all ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

SECTION 3

This ordinance shall be codified in a manner consistent with the laws of the State of Georgia

SECTION 4

This ordinance shall become effective immediately upon its adoption by the Mayor and Council of the City of _____.

SO ORDAINED this _____ day of _____, 2008.

CITY OF _____

By: _____
Mayor

COUNCIL MEMBERS

(SEAL)

EXHIBIT D

COMMUNICATIONS EQUIPMENT LICENSE AGREEMENT

This Communications Equipment License Agreement (the "Agreement") is made on this ____ day of _____, 201_ (the "Effective Date") by and between the City of _____, Georgia (the "Licensor") and Mobilitie, LLC, a Nevada limited liability company (the "Licensee." with Licensor and Licensee each a "Party" and collectively "Parties").

1 SCOPE OF AGREEMENT

1.1 Licensee, intending to deploy a telecommunications network, desires to locate certain of its network facilities on existing or new poles (including strand mounting on Cable) ("Poles"), streetlights and other structures (said Poles, streetlights and other structures hereinafter "Structures") and/or in the public right-of-way ("PROW") that are owned or controlled by Licensor either wholly or jointly with others within Licensor's service territory. Structures and PROW, together, shall be referred to as "Locations".

1.2 Licensor owns Locations, and wishes to allow Licensee to attach Equipment (as defined below) to Licensor's Locations.

1.3 Licensee has agreed to remit certain fees to Licensor, as described and set forth herein, in order to reasonably compensate the Licensor and the public for Licensee's use of said PROW.

1.4 Pursuant to this Agreement, Licensor, on a site by site basis, gives Licensee and its contractors, agents and customers a license to use particular Locations for Equipment in the manner and for the purposes set forth herein.

2 DEFINITIONS.

2.1 "Application" means the application for Attachment(s) submitted by Licensee to obtain permission from Licensor for the placement of any Equipment on Locations. The form of Application shall be reasonably prescribed by Licensor. Licensee shall provide a detailed description in its Application of such Equipment and the number of proposed Attachments to Locations. The form used for the Application process is identified as Appendix A and is included as a part of this Agreement and may be unilaterally amended by the Licensor in its reasonable discretion.

2.2 "Approved Application" means the Application as reviewed and completed by Licensor to identify any Make Ready or installation work, the estimated Cost thereof and any special conditions governing placement or Modification of any Equipment on or from Locations. Each Approved Application shall include billing for the estimated cost of any Make Ready or installation work described therein. The actual cost of such Make Ready or installation work, if different from the estimate, may be "trued up" as set forth in Article 7.1.

2.3 “Attachment” means one or more items of Equipment (including Wireless Attachments, as defined herein) used by Licensee or its customer in providing wireline or wireless telecommunications service (collectively referred to in the alternative as “Service”) and that is placed on Locations, pursuant to this Agreement.

2.4 “Cable” means coax cable, power cable, or fiber optic cable or any combination thereof used by Licensee or its customer to provide Service and any hardware or equipment mounted thereon, including without limitation cable amplifiers and splice boxes attached to Locations pursuant to this Agreement.

2.5 “Cost” means Licensor’s actual, direct out-of-pocket costs, including without limitation all direct costs for services, material, contractors and related engineering, as documented by Licensor in reasonable detail.

2.6 “Equipment” means antennas, radios, cabinets, fiber optic cable, support mounts and structures, guys, anchors, guy wire, duct, conduit, manhole, hand hole, cable equipment, other wireline and Wireless Attachments and all related accessories that are owned and/or used by Licensee and/or its customers in providing wireline or wireless telecommunications service.

2.7 “Make Ready” means all work, as reasonably determined by the Licensor, required to accommodate Licensee’s Attachment and/or to comply with all the Licensor’s building codes. Such work includes, but is not limited to, rearrangement of existing attachments, inspections, engineering work, permitting work, design, planning, construction, materials, cost of removal (less any salvage value), cost of a (Licensor-approved) substitution of light poles, tree trimming (other than tree trimming performed for normal maintenance purposes), facility construction, or conduit system clearing, but does not include routine maintenance.

2.8 “Modification” means any change or alteration affecting the Equipment, including without limitation any change in the number, type, ownership or use of the Equipment, which causes the information provided by Licensee in the prior Application(s) to be incorrect or incomplete in any respect.

2.9 “Permit” means the document issued by Licensor when an Application is granted, providing permission to Licensee for the placement or Modification on or from Licensor Locations of the specific Equipment identified in the Approved Application. The form of Permit shall be reasonably prescribed by Licensor.

2.10 “Service Drop” means a connection from Licensor Structures to a cabinet, building or structure being served.

2.11 “Wireless Attachments” means the antenna, radio, Cable, support mounts, structures and appurtenances owned or used by Licensee or its customer to provide Service, and any hardware or Equipment mounted thereon that are owned or used by Licensee or its customer and attached to Licensor Locations pursuant to this Agreement.

3 TERM OF AGREEMENT.

3.1 This Agreement shall commence on its Effective Date and shall remain in effect for an initial period of ten (10) years (the "Initial Term"), unless terminated sooner pursuant to this Agreement. Either Party may seek renewal of this Agreement by providing written notice to the other Party no less than six (6) months prior to the expiration of the Initial Term. Any renewal of this Agreement shall be on such terms as the Parties may mutually agree upon in writing. Either Party may terminate the Agreement by giving to the other Party six (6) months' notice prior to the end of the Initial Term. Each Permit shall have an initial term of five (5) years and said term shall commence upon execution of said Permit by both Parties. So long as the Initial Term is in effect, each Permit shall automatically be extended for one (1) additional five (5) year term unless terminated by Mobilitie pursuant to Section 14.4 of this Agreement. Notwithstanding anything herein, after the expiration of this Agreement, its terms and conditions shall survive and govern with respect to any remaining Permit in effect until the expiration of its then-current term or until its termination.

4 AUTHORITY FOR ATTACHMENTS AND MODIFICATIONS.

4.1 No Equipment shall be attached to any Locations until (a) an Application has been approved by Licensor and a Permit has been issued by Licensor, and (b) Licensee has obtained all necessary permits, licenses, consents, certifications and approvals from all governmental authorities and third parties in connection therewith.

4.2 Licensor may accept or reject an Application for a specific Pole or Poles in Licensor's reasonable discretion, or may place reasonable conditions on any such approval upon a specific size, height, location and manner of installation of the Equipment if it reasonably determines that (i) Licensee's use of a proposed Location is unsuitable or incompatible with Licensor's use of the Locations, (ii) a site or Licensor Pole has insufficient capacity based upon applicable industry, operational, safety, reliability or engineering standards, the Licensor's lawful exercise of its police power (including, but not limited to, permit and building code requirements) and the Licensor's prior and superior right to usage for municipal purposes, (iii) the Equipment materially jeopardizes the structural integrity of the Locations and pole replacement is not feasible, or (iv) the Permit violates any covenants and restrictions applicable to the Locations.

4.3 Licensee agrees to comply with all applicable laws, statutes, ordinances, codes, rules and regulations related to the installation, use and operation of the Equipment. Additionally, Licensee shall obtain and maintain, at its sole cost and expense, any and all easements, licenses, consents, franchises, certifications, permits or other authorizations required from any property owner or governmental entity in connection with the installation, use and operation of Equipment at any Locations. Licensor shall cooperate with Licensee in obtaining all such easements, licenses, consents, franchises, certifications, permits, approvals and authorizations.

4.4 Licensee shall not place any Equipment on Locations until a Permit has been issued and all necessary Make Ready work has been performed by Licensor or its agent.

4.5 Licensee shall install, maintain and remove all Equipment in accordance with all applicable laws, statutes, ordinances, codes, rules, regulations and industry standards.

4.6 In the event of any emergency condition during installation that threatens persons or property, Licensor may, in its reasonable discretion, order Licensee to stop work until such condition is remedied.

4.7 The permissions granted herein to make reasonable use of the PROW shall not be deemed to be a franchise, nor an exclusive license or right, and the Licensor reserves the right to make or grant a similar use of the PROW to any other person or persons subject to the terms and conditions of this Agreement.

4.8 Upon termination of this Agreement, whether by expiration of the Initial Term, the Renewal Term, or by earlier termination by a Party as allowed by this Agreement, Licensee's rights to use of PROW shall cease.

5 APPLICATION FOR ATTACHMENTS AND MODIFICATIONS.

5.1 Licensee shall submit an Application to Licensor for the attachment of proposed Equipment to Locations and shall specify therein the kind of Attachment sought and the date proposed for such Attachment, as well as a detailed description of the Equipment, and the number of Attachments that are included as part of the Equipment. Licensee shall furnish to the Licensor the plans for such Attachment, including photos of the subject facility and surrounding location, depiction, sketch or renderings of the Attachment, its dimensions, the location of the Structure, the height of the Attachment on the Structure, equipment specifications, attachment methods, and any applicable engineering, traffic control, and landscaping plans. Such plans may be reviewed by the Licensor to ensure, (a) that all applicable laws including building and zoning codes, air and water pollution regulations, and signal interference regulations are complied with, (b) that aesthetic and good planning principles have been given due consideration, (c) that adverse impact on the environment has been minimized, (d) that this Agreement is complied with, and (e) that the size and scale of the proposed Attachment are not too large nor disproportionate in relation to the Structure and the surrounding environment. Licensee shall comply with all reasonable regulatory requirements of the Licensor.

5.2 Licensee shall have the right to accompany Licensor, or a Licensor designated contractor, on all pre-construction pole walks scheduled by Licensor to determine the feasibility of the proposed installation and the nature and extent of required Make Ready work related to the proposed attachment of Equipment to Locations as set forth in the Application. With respect to Modifications, Licensee shall also have the right to accompany Licensor on any field verifications scheduled by Licensor to determine the feasibility of the proposed Modification set forth in the Application and whether any Make Ready work related to the proposed Modification is required. Licensor shall provide Licensee with sufficient notice of any such pre-construction inspection or field verifications. For authorized new Attachments covered under this Agreement, Licensee shall pay to the Licensor a nonrefundable Permit Application Fee of \$1,000.00 for each new Attachment included in an Application ("Application Fee"), to reimburse the Licensor for costs incurred for initial project management services, review of the permit application, and site design approval. Payment of the Application Fee shall be made upon filing of the Application. Notwithstanding any other provision of this Agreement, Licensee shall not be required to pay an

Application Fee in the case of replacement or modification of an Attachment. Licensee may include any number of Attachments in a single Application; provided, that an Application Fee shall be paid for each separate Attachment. Notwithstanding any other provision of this Agreement, Modifications shall not be subject to additional permitting to the extent that (i) such Modification to the Attachment involves only substitution of internal components, and does not result in any change to the external appearance, dimensions, or weight of the Attachment, as approved by Licensor; or (ii) such Modification involves replacement of the Attachment with an Attachment that is the same, or smaller in weight and dimensions as the approved Attachment.

5.3 Within thirty (30) business days after receipt of the Application filed pursuant to Article 5.1 of this Agreement, Licensor shall notify Licensee in writing whether the Application is approved or rejected and, if Make Ready work by the Licensor is required, shall provide an estimate of the Cost of such Make Ready work. Any rejection of an Application shall only be for good cause. If the Application is rejected, Licensor shall specify the reasons for such rejection and give Licensee a reasonable opportunity to cure without requiring Licensee to file a new Application. Licensor will also specify any reasonable conditions that will govern the proposed placement of Equipment on Licensor Locations. If, after receiving the Approved Application, Licensee still desires to install its Attachment(s) under the terms and conditions indicated on the Approved Application, Licensee shall accept such terms and conditions in writing ("Licensee Acceptance") and Licensor shall thereafter proceed with the specified Make Ready work within thirty (30) business days of receiving the Licensee Acceptance, and shall complete said Make Ready work within sixty (60) days of receiving the Licensee Acceptance. Licensor will notify Licensee upon completion of said Make Ready work and issue a Permit authorizing the attachment of Equipment pursuant to the Approved Application and subject to the terms and conditions set forth therein.

5.4 No fees and charges shall be refunded on account of any surrender of a Permit granted hereunder. Notwithstanding the foregoing, the Licensor shall not continue to charge an Annual Attachment Fee (as defined hereunder) going forward for any Permit surrendered in the previous calendar year, and Licensee shall be entitled to a refund upon discovery of such a billing error.

6 ATTACHMENT OF EQUIPMENT.

6.1 After completion of the Application process and issuance of a Permit by Licensor, Licensee may then attach the Equipment to the designated Locations in accordance with (a) the terms and conditions of the Permit, (b) industry standards, and (c) all applicable laws, statutes, ordinances, codes, rules and regulations imposed by any governmental entity with jurisdiction over the construction, operation, use, maintenance, repair, replacement or removal of the Equipment, the Locations or other facilities thereon, including, but not limited to, the Occupational Safety and Health Administration Regulations ("OSHA"). Licensee will follow Licensor's standard procedures to request power and/or a Service Drop to operate the Equipment for use in their designated purpose. Licensee shall have the right to accompany Licensor on any post-construction inspections scheduled by Licensor to determine Licensee's compliance with the terms and conditions of this Agreement and the Approved Application. Licensor shall provide Licensee with sufficient notice prior to any such post-construction inspection.

6.2 Notwithstanding the foregoing, a qualified contractor chosen by Licensee shall undertake the installation of any and all Equipment on or connected to Locations to the plans and specifications as submitted with the Application by Licensee. Such installation shall be at Licensee's cost.

6.3 All Wireless Attachments shall be clearly labeled at each Pole Location with Licensee's name and a telephone number where a representative of Licensee can be reached, twenty-four (24) hours a day, seven (7) days a week, to receive reports of problems with the Wireless Attachment. Licensee shall investigate all such reports in a timely manner and perform all necessary repair and maintenance to remedy such problems. There shall be no advertising or signs on the Attachment, except for equipment logos, specifications, or maintenance instructions that are generally not readable from the ground. The color of the Attachment shall either match the color of the pole upon which it is attached or shall be specified and approved by Licensor as part of the Application process. The Licensor shall have the right to require a joint inventory of all Attachments no more frequently than once every year by the Licensor and Licensee, unless both Parties agree to a new inventory schedule. The Cost of the inventory shall be reasonable and shall be paid by Licensee if during the course of said inventory Licensee is found to be out of compliance with this Agreement, and provided further that where inventory is taken of all attachments at the Locations (including those of third parties), the Cost of said inventory shall be reasonably allocated among the benefiting parties.

7 COST AND SCHEDULING OF MAKE READY.

7.1 In addition to the Application Fee set forth in Article 5.2, Licensee agrees to pay in advance the estimated Cost of all Make Ready, as such Cost is identified in the Approved Application. Upon receipt of such payment and the Licensee Acceptance, Licensor will cause the Make Ready work to be performed in accordance with the schedule set forth in Article 5.3 of this Agreement. Upon completion of the Make Ready Work identified in the Approved Application, if actual costs exceed the estimated cost by more than ten percent, the Cost of such Make Ready work may be "trued up", and if actual costs are less than the estimated cost, Licensee shall be entitled to a refund of the difference.

7.2 Licensee may request in writing that all or part of the Make Ready work be performed on a schedule different than that which otherwise would be implemented by Licensor pursuant to Articles 5.3 and 7.1. If Licensee makes such a request, Licensor will meet with Licensee to determine if the requested schedule is feasible and will not interfere with Licensor's business operations and with its obligations to its own customers and to other licensees. If Licensor decides in its reasonable discretion that it is feasible to undertake a different schedule for Make Ready work for Licensee than would otherwise result under Articles 5.3 and 7.1, based on Licensee's written request and Licensor's meeting with Licensee, Licensor and Licensee will negotiate a final schedule acceptable to both, which schedule will be confirmed in writing. Licensee agrees to pay Licensor all Costs incurred in meeting the revised schedule for Make-Ready, including, but not limited to, those Costs associated with overtime and with penalties which may be owed to the bargaining unit for work performed by contractors.

7.3 Licensee agrees to pay all Costs (to the extent not paid pursuant to Articles 5.2, 7.1 or 7.2 above), when incurred and billed, for the preparation of engineering documentation or work orders and drawings, that may be necessary to accommodate Equipment, whether occurring prior to the placement of any Equipment on Structures, or whether occurring subsequent to the placement of any Equipment on Structures in connection with the required post-construction walk to determine whether Equipment has been attached properly and in accordance with the Application and all applicable Permits. Licensor shall provide Licensee with a written estimate for such additional work within a reasonable time.

8 MAINTENANCE AND REPAIR.

8.1 Licensor will maintain the Locations and repair or replace Structures as necessary to fulfill its own service requirements and as required by law. In the event that Licensor determines that it will no longer maintain a Structure upon which any Equipment is attached, Licensor will send Licensee six (6) months written notice. In such event, Licensor shall use its best efforts to offer Licensee alternative space on another Structure for the Equipment.

8.2 Licensee shall maintain the Equipment in good and safe condition and repair in accordance with Licensor's standards and specifications and in compliance with all applicable law, statutes, ordinances, rules and regulations, as referenced in Article 6.1 herein. Additionally, Licensee agrees to maintain the Equipment in such a manner so as not to endanger or interfere with the use of Locations by Licensor or others granted a right to attach to said Locations. In the event Licensee fails to remedy a dangerous or interfering condition upon sufficient written notice thereof from Licensor, Licensor will take all actions it reasonably deems necessary or appropriate to remedy such matter. Licensor shall have no liability for actions taken to remedy such danger or interference unless such liability is caused by Licensor's negligence or willful misconduct. Licensee shall reimburse Licensor for Costs of such activities.

8.3 Nothing contained in this Agreement shall be construed as a limitation, restriction or prohibition on Licensor with respect to any agreement or arrangement Licensor has heretofore entered into or may enter into in the future with respect to any Locations. Except for the Make-Ready work expressly described in the Approved Application, Licensee hereby acknowledges and agrees that Licensor has not agreed to undertake any alterations or improvements to make the Locations suitable for Licensee's intended use.

8.4 Licensee agrees to install Equipment of the type and frequency which will not cause harmful interference which is measurable in accordance with then-existing industry standards to any equipment of Licensor or other permitted users of the Property which existed on the Property prior to the date this Agreement is executed by the Parties. In the event any after-installed Equipment causes such interference, and after Licensor has notified Licensee in writing of such interference, Licensee will take all commercially reasonable steps necessary to correct and eliminate the interference, including but not limited to, at Licensee's option, powering down such Equipment and later powering up such Equipment for intermittent testing. In no event will Licensor be entitled to terminate a Permit or relocate the Equipment as long as Licensee is making a good faith effort to remedy the interference issue. Licensor shall, with reasonable notice to Licensee, be entitled to power down immediately or cause to be powered down the

Equipment where the interference is with traffic-control devices. Licensor shall provide Licensee no less than thirty (30) days of any planned or routine maintenance of traffic control devices located where Licensee has installed its facilities. Licensor agrees that any other permitted users of the Property who currently have or in the future take possession of the Property will be permitted to install only such equipment that is of the type and frequency which will not cause harmful interference which is measurable in accordance with then-existing industry standards to the then-existing equipment of Licensee. The Parties acknowledge that there will not be an adequate remedy at law for noncompliance with the provisions of this Paragraph and therefore, either Party shall have the right to equitable remedies, such as, without limitation, injunctive relief and specific performance.

9 REMOVAL, REPLACEMENT OR RELOCATION.

9.1 In the event Licensee wishes to remove any of the Equipment from any Location, Licensee shall give Licensor written notice of said removal at least ten (10) business days in advance thereof. No adjustment in future fees due and payable by Licensee hereunder pursuant to Article 11 shall be made until Licensor has received such notice of completion of said removal from Licensee and has had an opportunity to field verify the number of Locations from which Equipment has been removed. Licensee's removal of any Equipment pursuant to this paragraph shall not damage or otherwise interfere with Licensor's use of Licensor facilities.

9.2 In the event of any emergency arising from or related to the Equipment that threatens persons or property, Licensor may, in its reasonable discretion, without prior notice, remove any Equipment, provided, however, that Licensor will make every reasonable effort to coordinate its emergency response with Licensee, and provided further that such removal shall be performed only by qualified personnel. Licensee shall be responsible for the Costs arising out of such removal, unless the removal was the result of the acts or omissions of Licensor or a third party. Licensor will give notice subsequent to Licensor's removal of Equipment as soon as practicable under the circumstances, and shall work in cooperation with Licensee to restore said Equipment expeditiously.

9.3 In non-emergency situations, if Licensor reasonably determines that its electric service or operating requirements, or considerations of safety, reliability, and engineering, require the removal, relocation, or replacement of any Equipment, Licensee shall effect such removal, relocation, or replacement within twelve (12) months after receipt of such written notice from Licensor. In the event of removal or relocation of any Equipment pursuant to this paragraph, Licensor will make reasonable efforts to provide Licensee with an alternative Location for said Equipment, and the Parties otherwise shall cooperate to the extent possible to assure continuity of service during said removal or relocation.

9.4 Licensee shall completely remove the Equipment from Locations no more than ninety (90) days after the termination of the Agreement. If Licensee fails to remove the Equipment within the required time, Licensor may remove the Equipment, at Licensee's expense, from Locations and without any liability to Licensee unless such liability is caused by Licensor's acts or omissions.

10 LICENSOR FACILITIES.

10.1 Licensor reserves the right to make periodic inspections of the plant of Licensee located on Locations, or a portion of that plant, as often as conditions warrant. If Licensor reasonably determines that corrections or changes must be made in order to meet the National Electric Safety Code, as a direct result of Licensee's attachment(s), Licensee agrees that it will cause such corrections or changes to be made in a timely manner. Licensor retains the right to maintain, replace, relocate and remove Structures in such manner as it deems necessary or appropriate to fulfill its own service requirements. Licensor shall provide Licensee with no less than twelve (12) months prior written notice of any relocation or removal of a Structure that may impact Equipment. Licensor shall not be liable to Licensee for any interruption of service or for any interference with the operation of the Equipment arising in any way out of Licensor's use, operation, maintenance, repair, removal or relocation of its Structures or Equipment, in compliance herewith, in connection with Licensor's own business needs and requirements, except to the extent such liability is caused by the negligence or willful misconduct of Licensor or any third party in its performance of such activities.

11 COMPENSATION

11.1 Licensee agrees to pay Licensor all fees and charges set forth in this Section within thirty (30) days from the date of receipt of invoices from Licensor, with the initial invoice to be issued thirty (30) days after issuance of the associated Permit. All such fees ("Annual Attachment Fees") shall be paid pro rata in the year that Licensor grants a Permit for the placement of such Attachment(s), and thereafter will be billable annually. Any payment not made within thirty (30) days from the due date shall bear interest at the rate of 1.5% per month until paid, or if 1.5% exceeds the maximum rate allowed by law, then at the maximum rate allowed by law. The Annual Attachment Fee for each Attachment shall be One Thousand Two Hundred Dollars (\$1,200.00) per Attachment.

11.2 Charges for Unauthorized Equipment. The attachment of any Equipment to Locations without the approval of Licensor pursuant to the terms of this Agreement shall be considered an unauthorized attachment of the Equipment. Licensee shall pay Licensor for each Licensor Location to which Licensee has attached unauthorized Equipment an amount equal to the annual fee that would have been charged for each item of such unauthorized Equipment under this Agreement for the year when the unauthorized Facility is discovered, multiplied by the number of years that has passed since Licensee's Attachment commenced, or the Effective Date of this Agreement, or five years; whichever is less.

11.3 Taxes. Licensee will be solely responsible for any taxes or assessments levied on its Equipment by any governmental entity and Licensor shall have no responsibility for the payment of such taxes or assessments.

12 LIABILITY AND INDEMNIFICATION

12.1 Licensee specifically agrees to indemnify, defend and hold Licensor harmless from all claims, costs, demands, suits, costs of defense and judgments which arise from, in whole or in

part, Licensee's acts or omissions pursuant to this Agreement, and from all damages or penalties arising out of the installation, construction, operation, or maintenance of Licensee's private network and Attachments, whether or not any act or omission complained of is authorized, allowed, or prohibited by this Agreement, except to the extent such damages or penalties result from the gross negligence or intentional or willful and wanton misconduct of the Licensor or agent thereof. Licensor shall not be liable for, and Licensee shall indemnify, defend and hold the Licensor harmless from all costs, damages and claims which arise from or relate to delay by Licensee in performing its obligations hereunder, for any cause whatsoever, except for the gross negligence or intentional or willful and wanton misconduct of the Licensor. Licensee also hereby agrees to pay all reasonable expenses of the Licensor incurred by the Licensor in defending itself with regard to any such damages, claims or penalties, including all out-of-pocket expenses, reasonable attorney' fees, and the reasonable value of any services rendered by the Licensor Attorney, his assistants, or any employees of the Licensor.

12.2 Licensor and Licensee shall conduct their operations hereunder in compliance with all applicable laws.

13 INSURANCE AND BOND.

13.1 Licensee and each of its contractors and subcontractors shall deliver to Licensor certificates of insurance required below evidencing insurance underwritten by a carrier rated at least A- VII by A.M. Best. If the insurance provided by Licensee is rated below A- VII, Licensee shall obtain approval in writing from Licensor for any exception. All policies of insurance must be reasonably satisfactory to Licensor in form and substance. All such insurance shall be written on an occurrence basis. Such insurance shall insure and provide risk protection from all claims which may arise out of or result from Licensee's operations under this Agreement, whether such work be by Licensee or by a subcontractor, or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable, in the amounts and for the coverages required below. The Licensee's policies of insurance shall name Licensor, its subsidiaries and affiliates as additional insured parties for any liability arising out of or resulting, in any way, from the work or operations of the Licensee on a primary and non-contributory basis and the policies shall include a severability of interest provision. Licensee shall also name as additional insured's any other parties as designated by Licensor in writing. With respect to all insurance coverage, the Licensee shall require its insurance carriers to waive all rights of subrogation against Licensor, its affiliates and subsidiaries and their respective directors, officers, agents and employees. Licensee shall not undertake any work under or pursuant to this Agreement until it has obtained all insurance required hereunder and acceptable certificates of insurance evidencing such insurance have been submitted and approved by Licensor.

(a) Commercial General Liability Insurance in an amount not less than One Million Dollars (\$1,000,000) combined single limits as to any one occurrence including bodily injury and property damage liability, products and completed operations, personal injury, advertising injury, and punitive damage coverage.

(b) Automobile Liability Insurance with combined single limits of not less than One Million Dollars (\$1,000,000) for bodily injury and property damage per occurrence. Such insurance shall cover liability arising out of any vehicle (including owned, hired, and non-owned vehicles).

(c) Workers Compensation Insurance with limits no less than required by law, employer's liability with minimum limits of One Million Dollars (\$1,000,000) per accident or disease and shall require its contractors and subcontractors to do the same.

(d) Excess Liability Insurance shall be purchased on a following form basis providing coverage in excess of employer's liability, commercial general liability and automobile liability with the limits not less than Two Million Dollars (\$2,000,000) each occurrence.

13.2 Prior to installing any Attachments under this Agreement to Locations, and while any Attachments are on Locations, Licensee shall furnish Licensor certificates of insurance evidencing coverage as required herein. Licensee shall send notice to Licensor of cancellation or termination of any insurance coverage to Licensor. Licensee or its contractors shall not cancel or change any such policy except with thirty (30) days' written notice (by First Class mail) to Licensor.

13.3 Commencing upon the date of Licensee's first attachment of Equipment to a Licensor Pole, Licensee will maintain a surety bond to guarantee the payment of all the sums that may become due from Licensee to Licensor under the terms of this Agreement in the following amounts: \$10,000.00 for the initial 1 to 10 Wireless Attachments to be made to Licensor Poles. Licensor may require Licensee to increase said bond by \$10,000.00 for each additional group of 10 Wireless Attachments in excess of the initial 10 Wireless Attachments to be made in or on Licensor Locations.

14 DEFAULT, TERMINATION AND OTHER REMEDIES.

14.1 A Party shall be in default ("Default") of this Agreement if it materially fails to perform or observe any representation, warranty, covenant, condition or agreement set forth herein, and fails to cure such breach within thirty (30) days after written notice, provided that the breaching Party shall have such extended period as may be required beyond thirty (30) days if the breaching Party commences the cure within the thirty (30) day period and thereafter continuously and diligently pursues the cure to completion. In the event of an uncured Default by either Party, the non-defaulting Party shall have the right to terminate this Agreement, in whole or in part, and seek any available remedies available to it in law or at equity.

14.2 Notwithstanding any provision of this Agreement to the contrary, in no event shall any Party to this Agreement be liable to any other Party for any special, incidental, indirect, punitive, reliance or consequential damages, whether foreseeable or not, arising out of, or in connection with this Agreement, including but not limited to damage or loss of property or equipment, loss of profits or revenue, cost of capital, cost of replacement services, or claims of customers, whether occasioned by any repair or maintenance performed by, or failed to be performed by, any Party to this Agreement, or any other cause whatsoever, including, without limitation, breach of contract, breach of warranty, negligence, or strict liability. No claims for damages with

respect to this Agreement may be made more than three (3) years after the date that the event giving rise to such claim is known or reasonably should have been known to the person or entity making such claim; and no claim for indemnity under the provisions of this Agreement may be made more than three (3) years after the first notice of any claim received by the Party claiming under such indemnity provision.

14.3 Licensee shall install, construct, maintain and operate its network in a safe manner providing reasonable protection against injury or damage to any and all persons or property.

14.4 Notwithstanding any other provision of this Agreement, Licensee may, in its sole discretion, terminate any Permit on thirty (30) days' notice to Licensors at any time without any further liability for any Annual Attachment Fees attributable to said Permit, so long as Licensee is not in default with respect to said Permit.

15 ASSIGNMENT.

15.1 Neither Party may assign or transfer all or any portion of its rights, privileges and obligations under this Agreement without written notice to and the prior written consent of the other Party, which consent shall not be unreasonably withheld. No such notice or consent shall be required for assignment or transfer to any parent, subsidiary, Affiliate, or any person, firm, or corporation that shall control, be under the control of, or be under common control with Licensee, or to any entity into which Licensee may be merged or consolidated or which purchases all or substantially all of the assets of Licensee that are the subject of this Agreement. Notwithstanding the foregoing, Licensee may provide capacity across Licensee's communications facilities to a third party without the notice and consent required in this paragraph, so long as Licensee retains control over and remains solely responsible for such communications facilities. The use of Licensee's communications facilities by third parties (including, but not limited to, leases of dark fiber) that involves no additional Attachment shall not be considered a sublicense to a third party subject to the provisions of this paragraph..

15.2 The terms and conditions contained in this Agreement bind and inure to the benefit of Licensors and Licensee and, except as otherwise provided herein, their successors and assigns.

16 REPRESENTATIONS AND WARRANTIES.

16.1 Power and Authority. Each Party represents and warrants that (a) it is a corporation duly organized, validly existing and in good standing in its state of organization, (b) it is qualified to do business (if a foreign corporation) under the laws of the State of Georgia, and (c) it has full power and authority to enter into this Agreement and undertake the responsibilities and obligations contemplated by it in accordance with its terms.

16.2 Enforceability. Each Party represents and warrants that this Agreement constitutes a valid and binding obligation of such Party and is enforceable against such Party in accordance with its terms and conditions. Each Party further represents and warrants that it has independently reviewed this Agreement, including the charges set forth in Article 11, and concluded that this Agreement is just, reasonable and equitable.

17 FORCE MAJEURE.

17.1 Neither Party shall be liable for any delay in performance or inability to perform any non-monetary obligations hereunder if such delay or inability is due to acts or omissions which are not voluntary by such Party and beyond such Party's reasonable control.

18 MISCELLANEOUS.

18.1 The Licensor expressly reserves its right and duty to adopt, from time to time, in addition to the provisions herein contained, such ordinances, rules and regulations as may be deemed necessary by the Licensor to promote the health, safety and welfare of its inhabitants and their property.

18.2 If any part of any provision of this Agreement or any other agreement, document or writing given pursuant to or in connection with this Agreement shall be held to be invalid or unenforceable under applicable law, said part shall be ineffective to the extent of such invalidity or enforceability only, without in any way affecting the remaining parts of said provision or the remaining provisions of said Agreement; provided, however, that if any such ineffectiveness or unenforceability of any provision of this Agreement, in the good faith judgment of either Party, renders the benefits to such Party of this Agreement as a whole uneconomical in light of the obligations of such Party under this Agreement as a whole, then Licensee and Licensor shall negotiate in good faith in an effort to restore insofar as possible the economic benefits of the transaction to the Parties.

18.3 In all matters pertaining to this Agreement, the relationship of Licensee and Licensor shall be that of independent contractors, and neither Licensee nor Licensor shall make any representations or warranties that their relationship is other than that of independent contractors. This Agreement is not intended to create nor shall it be construed to create any partnership, joint venture, employment or agency relationship between Licensee and Licensor; and no Party hereto shall be liable for the payment or performance of any debts, obligations, or liabilities of the other Party, unless expressly assumed in writing herein or otherwise. Each Party retains full control over the employment, direction, compensation and discharge of its employees, and will be solely responsible for all compensation of such employees, including social security, withholding and workers compensation responsibilities.

18.4 No failure or delay on the part of either Party hereto in exercising any right, power or privilege hereunder and no course of dealing between the Parties shall operate as a waiver thereof; nor shall any single or partial exercise of any right, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any, other right, power or privilege.

18.5 All notices required to be given by one Party to the other Party under this Agreement shall be in writing and shall be deemed sufficient if given in any of the following ways: (a) delivery by a messenger service or private delivery service providing same or next day delivery, (b) sent by United States Certified Mail, return receipt requested, postage prepaid, or (c) by

electronic copy and followed within 24 hours by an original copy deposited in the United States Mail, first class, postage prepaid, to the parties at the addresses set forth herein below. With respect to notification of completion of Make-Ready work (Article 5.3), notice of interference or endangerment (Article 9.3), notice of emergency action (Article 9.2), or such other notice requirements as Licensor and Licensee may agree from time to time to treat as follows, notice may first be made by telephone call or e-mail to the person or persons specified below, to be followed immediately by a confirmation notice in writing as directed above. The parties' addresses below may be changed by giving written notice to the other Party to the address specified below:

If to Licensor:

City of

If to Licensee:

Mobilitie, LLC
2220 University Drive
Newport Beach, CA 92660
Attn: Legal Department

18.6 This Agreement constitutes the entire understanding between the parties relating to the rights, duties and obligations granted and assumed herein. Any prior agreements, promises, negotiations or representations regarding the subject matter hereof are of no force or effect. No alteration or variation of the terms of any provision shall be valid unless made in writing and signed by a duly authorized representative of the parties.

18.8 This Agreement shall be governed by and interpreted in accordance with the substantive laws of the State of Georgia (now and as may be amended or interpreted in the future), without reference to its conflicts of law principles. This Agreement is subject to all applicable Federal, state and local laws, and regulations, rulings and orders of governmental agencies

IN WITNESS WHEREOF, the parties to this Agreement by their duly authorized representatives have executed this Agreement to be effective as of the day and year first written above.

CITY OF _____, GEORGIA
(Licensor)

MOBILITIE, LLC
(Licensee)

By: _____

By: _____

Printed Name: _____

Printed Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

APPENDIX A

COMMUNICATION SITE APPLICATION

Applicant: _____ Date: _____

Licensee: _____ Application/License#: _____

Licensee Site ID #	Communication Site GIS Coordinates	Type of Communication Facility
		[Wireless Communication Equipment] [Wireless Backhaul Equipment] [Landline Backhaul Equipment]

If Wireless Communication Equipment or Wireless Backhaul Equipment:

Pole Type	Pole Alteration	Attachme nt Height	Attachme nt Weight	Attachm ent Dimensi ons	Location of Equipment
[City Pole] [Third-Party Pole] [Licensee Pole] [Not Applicable/Need ed]	[Pole Reinforcement] [Pole Replacement] [New Pole] [Not Applicable/Needed]				[Installed on Pole] [Installed in Ground] [Not Applicable/Needed]

APPLICANT SHALL PROVIDE THE FOLLOWING IF/AS APPLICABLE:

- Site plan and engineering design and specifications for installation of Communication Facility, including the location of radios, antenna facilities, transmitters, equipment shelters (i.e. cabinet), cables, conduit, point of demarcation, backhaul solution, electrical distribution panel, electric meter, and electrical conduit and cabling. Where applicable, the design documents should include specifications on design, pole modification, and ADA compliance.
- For City poles, include documentation from the City verifying that the pole is eligible for attachment. Also include a load bearing study that determines whether the pole requires reinforcement or replacement in order to accommodate attachment of Communication Facility. If pole reinforcement or replacement is warranted, the design documents should include the proposed pole modification.
- For new pole installations, include documentation from the Rights-of-Way Manager verifying that the pole location in the Rights-of-Way is eligible for installation.
- The number, size, type and proximity to the facilities of all communications conduit(s) and cables to be installed.
- Description of the utility services required to support the facilities to be installed (i.e. electrical).
- All necessary permits and letters of authorization from all affected parties.
- List of the contractors and subcontractors, and their contact information, authorized to work on the project

----- **FOR CITY USE ONLY** -----

Please advise Licensee as to whether or not these Attachments will be permitted and if necessary provide an estimate for any additional costs that Licensee may be required to pay as Make Ready Work. If Make Ready Work is required, upon receipt of Licensor supplied Make Ready Estimate, the Licensee shall provide notice to Licensor of either approval of the cost estimate or that Licensee will not undertake to make these Attachments. Upon receipt by Licensor of Licensee's notice of estimate approval of Make Ready Costs, the Licensor will proceed with Make Ready Work.

LICENSOR				
Response Date			Licensor Make Ready Construction Required?	Yes
Name				No
Signature			Licensor Make Ready Construction Estimate	\$
Phone				
Fax			Permit #	
Email				
Request Response	Approved		Reason for	
	Denied		Denial	

Permit Application Form

CITY OF
PLANNING DEPARTMENT
PERMITS & INSPECTIONS DIVISION

PERMIT APPLICATION

(See Reverse Side for Additional Information)

G. In addition to completing this form, the applicant must provide the following:

1. A dimensioned drawing of the land to be used. This drawing must include all existing improvements on city property, i.e. curb, sign, posts, fire hydrants, etc., and the location of the property line. Show the area (length and width) of City property to be leased.
2. Any other information requested by the Planning Department, and/or the Public Works Department necessary to evaluate the proposed use.
3. Application fee of \$_____.00 (fee not refundable).
4. Bond (if required – see back).
5. Other _____

Site Location

Applicant Information:

Applicant Name

Applicant Address

Name & Title of Contact Person

Telephone No.

Email Address

Signature:

By: _____

Title:

Date: _____

Description of intended use:

If application is for Radio/Phone Tower complete the following:

Replacement of existing pole Y _____ N _____

If replacement, height of existing pole _____

Ground space required if greater than 3 Sq. Ft. _____

Pole height to top of antenna _____

Site Name:

Node #:

*Make payments to the order of: _____

.....

FOR OFFICE USE ONLY

PLANNING:

() APPROVED

) NO

() DENIED

PUBLIC WORKS:

() APPROVED other entity? () YES(

() DENIED

Planning Director

Date

Public

Works

Director

Date

CITY COMMISSIONERS APPROVAL REQUIRED Y N

APPROVED CITY COUNCIL RESOLUTION # () DENIED

DATE PASSED

ANNUAL LEASE FEE (PRORATED FOR 1ST YEAR) \$

ANNUAL LEASE FEE \$

LEASE COMMENCEMENT DATE

LEASE PAYMENT DUE DATE

LEASE EXPIRATION DATE

BY (FINANCE DEPT.)